

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

8
9 United States of America,
10 Plaintiff,

No. CR08-0814-01-PHX-DGC

11 vs.

ORDER

12 Daniel David Rigmaiden (1),
13 Defendant.

14
15 Defendant Daniel Rigmaiden has filed a document titled Motion for Order
16 Requiring that the Defendant Not Be Subject to Sleep Deprivation Prior to Each Court
17 Appearance. Doc. 666. The Court discussed the motion with Defendant at the hearing
18 on October 28, 2011. Following the hearing, the Court communicated with the United
19 States Marshal's Service, which in turn communicated with Corrections Corporation of
20 America ("CCA"), concerning issues raised in the motion.

21 Defendant's motion states that he is awakened at approximately 11:30 p.m. on the
22 night before every court appearance. He asserts that the time after 11:30 p.m. is
23 consumed by processing, feeding, organizing, and searching inmates prior to their
24 transportation to the Phoenix courthouse early the next morning. Doc. 666 at 2.
25 Defendant asserts that his "natural sleeping patterns," as well as excessive noise and
26 activity in his sleeping pod, prevent him from sleeping during the day before a court
27 hearing or at any time prior to 11:30 p.m. on the night before a hearing. Doc. 666-1 at
28

1 29. Defendant further asserts that discomfort while being transported to the courthouse,
2 and the conditions in the holding cells at the courthouse, prevent additional sleep. *Id.* at
3 29-30. As a result, Defendant asserts that he typically appears in court without having
4 slept for the preceding 31 hours. *Id.* at 39.

5 The Court's communications with the Marshal's Service confirmed that inmates at
6 the CCA facility are awakened and taken from their cells by 1:00 a.m. on the morning
7 before a court appearance. The Marshal's Service has confirmed that this time is used to
8 process, organize, feed, search, and prepare the inmates for transportation early the next
9 morning. Because the CCA facility is more than 60 miles away from the Phoenix
10 courthouse, the bus to the courthouse leaves at approximately 5:30 a.m. to arrive in time
11 for morning court appearances. The Marshal's Service also was informed by CCA that
12 Defendant is free to sleep during the morning, afternoon, or evening before every court
13 appearance.

14 Defendant has been representing himself in this case since January 7, 2010. At a
15 hearing on that day, Defendant expressed concern about the offensive manner in which
16 he is treated during the preparation for court appearances and asked that he be permitted
17 to appear at hearings by teleconference. The Court denied this request, stating that if
18 Defendant was going to represent himself he would be required to appear at every
19 hearing that his lawyer would otherwise attend. The Court specifically asked Defendant
20 if he still wished to represent himself in light of this requirement, and he said yes. The
21 Court discussed with Defendant the limited legal resources available at the CCA facility,
22 and stated that the Court would not require CCA to change its law library to
23 accommodate his self-representation. Defendant said he understood. The Court asked
24 Defendant if there was any other condition he would insist upon as part of representing
25 himself, and he said no.

26 Defendant has appeared in this Court on 13 separate occasions since he was
27
28

1 granted permission to represent himself.¹ During these hearings, Defendant has always
2 appeared to the Court to be lucid and alert. The Court has never detected that Defendant
3 was impaired by lack of sleep. It was not until this motion was filed on
4 October 24, 2011, that Defendant complained of lack of sleep.

5 The Court has inquired, through the Marshal's Service, about the possibility of
6 making special transportation arrangements for Defendant. CCA has responded with two
7 concerns: making special arrangements for Defendant will cause unrest and dissention
8 among the rest of the facility's population who do not receive such special treatment, and
9 providing special treatment to Defendant could place him at risk by suggesting to the
10 general population that he is receiving benefits for cooperating with the government. The
11 Court views these as legitimate concerns. The Court also notes that it has never received
12 a similar request from the hundreds of defendants housed at CCA during the Court's
13 years on the bench.

14 Given Defendant's effective performance at the many hearings that have occurred
15 to date, the Court concludes that special accommodations are not necessary for Defendant
16 to represent himself effectively. The Court also concludes that the potential disruption
17 within the CCA facility, as well as the potential danger to Defendant if special
18 transportation arrangements are made, are valid reasons for not making such
19 arrangements. The Court also is not convinced that Defendant is unable to rest before
20 11:30 p.m. on the night before hearings.

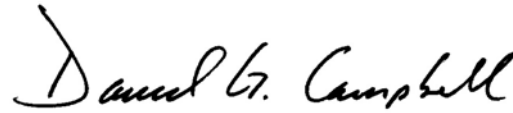
21 The Court recognizes that the current transportation arrangements might become a
22 problem when Defendant is required to appear in Court on multiple successive days, such
23 as trial. The Court will address this issue as trial approaches.

24 **IT IS ORDERED** that Defendant's Motion for Order Requiring Defendant Not
25 Be Subjected to Sleep Deprivation Prior to Each Court Appearance (Doc. 666) is **denied**.

26
27 ¹ The Court's docket shows that Defendant has appeared on February 3, March 24
28 and 29, May 28, July 15, September 8, and November 9, 2010, and January 6, February
10, March 14, May 5, July 20, September 22, and October 28, 2011.

1 Excludable delay pursuant to U.S.C. § 18:3161(h)(1)(D) is found to commence on
2 10/24/2011 for a total of 26 days.

3 Dated this 18th day of November, 2011.

4
5
6 

7

David G. Campbell
8 United States District Judge
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28